

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
AUGUST 11, 1999**

PRESENT: Roy Pfeffer, Rick Unbehaun, Daniel Densow, W. Robert Cress, Peter Schils, Bonnie Gift

ABSENT: None

STAFF PRESENT: Secretary Cummings (for a portion of the meeting), Cletus Hansen, Becky Fry; Jacquelynn Rothstein, Legal Counsel; and Division of Enforcement staff were present for portions of the meeting.

GUESTS: Ashley Moore, FSA
Lisa Boyce, Quarles & Brady
Bill Cress, FSA
Mark Paget, WFDA
Mark Krause, FSA
James Van Dyke, Abbit Management Corporation
Barbara L. Schuler, Wis. Technical College System

CALL TO ORDER

The meeting was called to order at 9:30 a.m. by Roy Pfeffer, Chair. A quorum of six members was present.

The Board welcomed new member, Bonnie Gift, and asked her to introduce herself. The Board members made introductions and gave some background on themselves.

Roy Pfeffer, for the benefit of new Board member, Bonnie Gift, gave some background on the Board.

AGENDA

MOTION: Peter Schils moved, seconded by Dan Densow, to adopt the agenda, as published. Motion carried unanimously.

MINUTES (5/18/99 & 7/8/99)

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to approve the minutes of the 5/18/99 meeting, as written. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Bob Cress, to approve the minutes of the 7/8/99 meeting, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Cummings' Report

Secretary Cummings welcomed Bonnie Gift.

Unlicensed Practice Complaints

Clete Hansen addressed the information relating to the handling of unlicensed practice complaints. He explained that the statutes give the department the authority to undertake investigations and to prosecute for unlicensed activity.

The question was raised if someone is aware of an unlicensed activity occurring, what should that person do? Clete Hansen explained that a complaint may be filed and it could be completely anonymous. He stressed the importance of the complainant's name or address not being on the envelope or paper, because information received will eventually become a public record.

Secretary Cummings explained to the Board that the department has been receiving numerous calls regarding Evergreen Cemetery. She explained that Evergreen is an unlicensed cemetery and that we now have no jurisdiction over it.

The Loewen Group

Secretary Cummings explained to the Board that the Loewen Group is in bankruptcy. She indicated that they are working well with the department staff and are sharing information with us, indicating that they are trying to properly handle their responsibilities and obligations relating to trust funds.

Secretary Cummings discussed the certificate of good standing bill. She informed the Board that she has been in communication with Representative Suzanne Jeskewitz and Senator Gary George, relating to sponsoring the bill to eliminate the certificate of good standing.

Jacquelynn Rothstein explained to the Board the proposed procedure for reinstatement of a person holding a certificate of good standing.

Secretary Cummings informed the Board that the budget has not yet been passed. This will cause the loss of some money because increases in renewals cannot be imposed until the budget is passed.

Peter Schils recommended that Board members and members of the profession should contact assembly and senate members, indicating that they would appreciate their support of the Certificate of Good Standing Bill.

The Board received an informational handout on the Governor moving state government to the Racine/Kenosha area on August 29-31, 1999. This informational hearing will be held at the Kenosha Campus of Gateway Technical College. Secretary Cummings invited members from all areas of the funeral business to attend this informational hearing.

Secretary Cummings mentioned to the Board that a mixed Board between funeral directors and cemeterians has not been proposed.

Roy Pfeffer informed the Board that both funeral directors and cemeterians believe that a mixed board would be inappropriate.

Secretary Cummings stated she would still like to set up a type of board for the Cemetery industry which would work like the Real Estate Board, the Real Estate Appraisers Board, and the Auctioneer Board.

Roy Pfeffer informed the Board and Secretary Cummings that he contacted the International Cemetery and Funeral Association located in Preston, Virginia, inquiring about their definition of a cemetery. He received a binder entitled Model Guidelines and Laws for Regulation of Cemeteries. A cemetery is defined as “a place that is established, maintained, managed, operated, or improved and which is dedicated to and used or intended to be used for the final disposition of human remains and their memorialization.”

Bureau Director's Report

Board Member Roster

The Board received an updated roster. Noted.

2000 Meeting Dates

The Board received a list of the 2000 meeting dates. Board meetings will be held on Tuesdays, every other month. The Board agreed to keep screenings on the third Monday during the months when no Board meetings are scheduled.

The Board agreed to hold a teleconference meeting in September, unless there is some business that would warrant a regular meeting.

To-Pass Folder

Roy Pfeffer explained the procedure and use of the To-Pass Folder. Information in the To-Pass Folder was circulated and duly noted.

LEGISLATIVE UPDATE

Regulation of Crematories

Dan Densow stated the Ad Hoc Committee will meet in September. He explained that Wisconsin is one of the few states that does not have any regulation of crematories.

Roy Pfeffer explained that crematories are operated and managed in conjunction with funeral homes. He stated, with the rapid increase in the rate of cremations, crematories should be regulated.

Update and Action Relating to Unspecified Bills That May Have Been Introduced

Nothing to report.

Certificates of Good Standing

Roy Pfeffer explained, for the benefit of Mrs. Gift, the significance of a certificate of good standing and the requirements for reinstatement after holding a certificate of good standing. He explained that a bill has been introduced to eliminate the certificate of good standing.

Rick Unbehaun explained the concern of some certificate of good standing holders. He received calls from certificate holders stating they had been paying for renewal every two years but they were unaware of the possibility of having to take the entire test over, to be reinstated after having been out of the profession for over five years.

Budget Bill Amendment – Consumer Disclosures

The Board discussed Senator Shibilski's and Representative Montgomery's funeral/cemetery consumer disclosure initiative, introduced as an amendment to the Biennial Budget Bill.

Roy Pfeffer explained the 1984 Federal Trade Commission Funeral Rule, stating any person who sells funeral services and funeral merchandise fall under the Funeral Rule. He explained concern about the word "and," because an individual who sells funeral merchandise, but not funeral services is not regulated by the rule.

MOTION: Robert Cress moved, seconded by Daniel Densow, to request Cleve Hansen to draft a letter of support, to be sent to Senator Shibilski. Motion carried unanimously.

ADMINISTRATIVE RULES

Final Copy of the Revised Rule: FD 6

Roy Pfeffer gave background information on FD6.

No further discussion.

LICENSING ISSUES

Application for Funeral Establishment

The Board discussed recommendations of Jacquelynn Rothstein and adding the word “floors” to item number five (p. 3) on the survey portion of the application.

MOTION: Peter Schils moved, seconded by Rick Unbehaun to adopt the funeral establishment application form with the amendments suggested by Legal Counsel and an amendment to include the word “floors” on question number 5 of the survey portion of the application. Motion carried unanimously.

EXAMINATION ISSUES

Roy Pfeffer explained the procedure for handling an application for licensure.

Casey Brown explained to the Board how the performance of test items is reviewed and analyzed. He handed out to the Board a copy of “Job Analysis – The Strong Foundation Needed to Build Quality Assessments” by Linda Montgomery, Ph.D. Mr. Brown explained to the Board that critical tasks of the job are identified, the knowledge needed to perform these tasks is identified, and the contents of the exam are then based on these determinations. He indicated that a job analysis should be updated every four or five years.

BOARD MEMBER ACTIVITY

The Board discussed the program for the 96th Annual Convention to be held in Kansas City.

MOTION: Robert Cress moved, seconded by Rick Unbehaun, to authorize Roy Pfeffer to attend the annual convention in Kansas City. Motion carried unanimously.

REPORT OF THE ADVISORY COMMITTEE ON FUNERAL DIRECTOR APPRENTICESHIP ISSUES

Clete Hansen referred to the minutes of the Funeral Director Apprentice meetings. He explained that a subcommittee will be meeting to work on the kinds of experiences an apprentice should receive during an apprenticeship and timelines for introduction to various facets of the business. He indicated that the Board will be receiving a complete list of recommendations made by the Funeral Director Apprentice Advisory Committee for the Board's approval and action.

Roy Pfeffer expressed the need for a definition of "supervision." Discussion was deferred to the Funeral Director Apprentice Advisory Committee meeting.

MASTER TRUST PROGRAMS FOR BURIAL AGREEMENTS

Jacquelynn Rothstein reviewed several issues, relating to the Abbit Management agreement. One of the issues pertains to how interest is applied.

James Van Dyke addressed the issue of interest and explained to the Board what is meant by "any interest." He also explained the process of investment and return.

The Board discussed the awareness of consumers of funding options.

Jacquelynn Rothstein urged the Board to consider reviewing the consumer guide to pre-planning funerals and to include the option of a Master Trust Program.

MOTION: Peter Schils moved, seconded by Daniel Densow, to amend the language in the proposed plan for master trust program from "The custodial agreement provides for deposits to be made within 30 days" to read "15 days" and to approve Abbit Management's proposed plan for a master trust program after making due changes to the original plan as addressed by our Legal Counsel. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Robert Cress, to request Jacquelynn Rothstein to draft language for the pre-need consumer brochure, to include information on master trust programs along with current bank trusting and life insurance information and to bring it back to the Board at a future meeting for its approval. Motion carried unanimously.

CERTIFICATES OF GOOD STANDING

Judy Mender provided a list of 119 people who are currently holding a certificate of good standing.

The Board discussed the current policy and procedures concerning holders of a certificate of good standing and the requirements for reinstatement. The Board recommended maintaining the current policy of looking at each individual application and determining the requirements for reinstatement.

MOTION: Rick Unbehaun moved, seconded by Peter Schils, to request Clete Hansen and Rick Unbehaun to draft the language of a reply to be sent to Robert Skinner, brother of certificate in good standing holder, Albert Skinner, explaining the denial for reinstatement from 1998 and indicating what is happening with the current legislative proposal to eliminate the certificate of good standing. Motion carried unanimously.

MOTION: Peter Schils moved, seconded by Rick Unbehaun, requesting Jacquelynn Rothstein to draft language for a letter to be sent to the current individuals holding certificates of good standing, explaining they will be considered on an individual basis, as to what is needed for them to become reinstated and informing the certificate holders of the bill being sponsored to eliminate the certificate of good standing. Motion carried unanimously.

The Board received a handout from Roy Pfeffer entitled Legislative Language (Authority) to Waiver or Exempt Funeral Director Licensees, relating to the certificate of good standing issue. Discussion was deferred to the next meeting.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

FTC Activities

Noted.

Keystone Group Holdings, Inc.

Noted.

SCI/Board Documents

Jacquelynn Rothstein and Clete Hansen discussed several issues, relating to the documents.

Further discussion was deferred to closed session.

MODEL ENDORSEMENT PLAN

Clete Hansen explained that this item was a carry-over from previous discussion. Noted.

NEW BUSINESS

Clete Hansen addressed the handout regarding a new travel agency for out-of-state air travel. Noted.

PUBLIC COMMENTS

None.

RECESS TO CLOSED SESSION

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, reinstatement requests, extension requests, examination challenges, deliberations on stipulations that may be signed after printing of the agenda, pending applications, and disciplinary proceedings. Motion carried unanimously by a roll call vote: Robert Cress-yes; Daniel Densow-yes; Rick Unbehaun-yes; Roy Pfeffer-yes; Peter Schils-yes; Bonnie Gift-yes.

Open Session recessed and the Closed Session convened at 1:44 p.m.

The Board received a copy of the Case Status Report.

The Board deliberated on case closings, stipulations, apprenticeship issues, pending applications, monitoring report, and disciplinary matters.

The Board discussed information on Cemetery Services, Inc. and the sale of cemetery holdings to Stewart Enterprises.

RECONVENE IN OPEN SESSION

MOTION: Peter Schils moved, seconded by Daniel Densow, to reconvene in Open Session at 3:43 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

CASE CLOSING

- MOTION:** Daniel Densow moved, seconded by Rick Unbehaun, to close 99 FDR 004, Harold Speckien, for prosecutorial discretion for minor technical violation relating to unlicensed hiring and to close for insufficient evidence relating to other allegations. Motion carried with Peter Schils abstaining.
- MOTION:** Daniel Densow moved, seconded by Robert Cress, to close 99 FDR 018, Daniel L. Newcomer, and to amend the previously executed formal order to include the clarification in the letters dated August 2, August 4, and August 6, 1999. Motion carried with Roy Pfeffer abstaining.

STIPULATION

- MOTION:** Daniel Densow moved, seconded by Rick Unbehaun, to accept the Stipulation for 95 FDR 2, Gary F. Konrad and William H. Behlman. Motion carried with Roy Pfeffer abstaining.
- MOTION:** Peter Schils moved, seconded by Daniel Densow, to accept the Stipulation for 96 FDR 034, 98 FDR 027, and 98 FDR 031, Kenneth R. Andrews, for \$1,000 part assessment of costs and a two week suspension. Motion carried with Roy Pfeffer abstaining.
- MOTION:** Robert Cress moved, seconded by Rick Unbehaun, to accept the Stipulation, and Final Decision and Order in the disciplinary matters involving Diego Camacho, Jr., 98 FDR 034, with \$250 part assessment of costs. Motion carried with Daniel Densow abstaining.

APPRENTICESHIP ISSUES

- MOTION:** Daniel Densow moved, seconded by Rick Unbehaun, to direct staff to draft a letter requesting more information for Curtis Benjamin. Motion carried unanimously.
- MOTION:** Peter Schils moved, seconded by Daniel Densow, to deny the request for waiver for apprenticeship for Carrie Hartleben. Motion carried unanimously.

The Board reviewed information relating to the prospective application of Amanda R. Johnson. The Board requested that a letter be sent to Ms. Johnson, requesting more information about her situation.

PENDING APPLICATIONS

MOTION: Peter Schils moved, seconded by Daniel Densow, to deny the application for Robert Rien. Motion carried unanimously.

MOTION: Peter Schils moved, seconded by Robert Cress, that a complaint be filed against Gianna Wacholz. Motion carried unanimously.

MONITORING REPORT

MOTION: Peter Schils moved, seconded by Daniel Densow, to lift the stay and revoke the license of Benjamin Barbour. Motion carried unanimously.

SUCH OTHER ITEMS AS AUTHORIZED BY LAW

ADJOURNMENT

MOTION: Peter Schils moved, seconded by Bonnie Gift, to adjourn the meeting at 3:49 p.m. Motion carried unanimously.